

DEPARTMENT OF STATE REVENUE

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LETTER OF FINDINGS NUMBER: 98-0314P

Sales and Use Tax

For Tax Period: October, 1997

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ISSUE(S)

I. Tax Administration – Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the imposition of the negligence penalty.

STATEMENT OF FACTS

Taxpayer files by Electronic Funds Transfer.

I. Tax Administration - Penalty

DISCUSSION

At issue is whether the taxpayer was negligent in remitting tax due subjecting it to a negligence penalty.

Taxpayer states the failure to remit the October payment resulted from the transition of personnel and the employee making the remittance completely filled out the EET but was terminated prior to remitting the money. Until the notice for failure to remit was received, the taxpayer was not aware of the missed payment. Taxpayer further states it has remitted all other tax payments in a timely manner, therefore, requests the penalty be waived.

Taxpayer has been aware of the consequences in filing EFT payments untimely. In 1990 it requested a one-time waiver of the penalty for a December 1989 liability and again in 1996 for a October 1996 liability. Both were waived by the department.

Transition of personnel is not reasonable cause for the waiver of penalty. Procedures should have been in place to assure timely payments.

FINDING

Taxpayer's protest is denied. The negligence penalty is appropriate.